



**NEW HOPE-SOLEBURY SCHOOL DISTRICT
BUCKS COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT**

JUNE 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Ms. Amanda Elefante, Board President
New Hope-Solebury School District
180 West Bridge Street
New Hope, Pennsylvania 18938

Dear Governor Corbett and Ms. Elefante:

We conducted a performance audit of the New Hope-Solebury School District (District) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period September 9, 2010 through August 31, 2012, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2010 and June 30, 2009. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the District complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except as detailed in two findings noted in this report. A summary of these results is presented in the Executive Summary section of the audit report.

Our audit findings and recommendations have been discussed with the District's management, and their responses are included in the audit report. We believe the implementation of our findings and recommendations will improve the District's operations and facilitate compliance with legal and administrative requirements. We appreciate the District's cooperation during the conduct of the audit.

Sincerely,

/s/

EUGENE A. DEPASQUALE
Auditor General

June 10, 2013

cc: **NEW HOPE-SOLEBURY SCHOOL DISTRICT** Board of School Directors

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Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the New Hope-Solebury School District (District). Our audit sought to answer certain questions regarding the District's compliance with applicable state laws, contracts, grant requirements, and administrative procedures and to determine the status of corrective action taken by the District in response to our prior audit recommendations.

Our audit scope covered the period September 9, 2010 through August 31, 2012, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2009-10 and 2008-09 school years.

District Background

The District encompasses approximately 26 square miles. According to 2010 federal census data, it serves a resident population of 11,220. According to District officials, the District provided basic educational services to 1,568 pupils through the employment of 135 teachers, 90 full-time and part-time support personnel, and 13 administrators during the 2009-10 school year. Lastly, the District received \$3.7 million in state funding in the 2009-10 school year.

Audit Conclusion and Results

Our audit found that the District complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except for two compliance-related matters reported as findings.

Finding No. 1: Administrator Settlement Agreement Cost Taxpayers Over \$65,000.

Our review of the former Principal's employment contract, payroll records, retirement records, and settlement agreement found that the former Principal negotiated a settlement agreement that supersedes the Administrator Compensation Plan. The agreement included payment for unused vacation days that he was not entitled to receive. Additionally, the granting of a stipend in the amount of \$3,000 for the purchase of a home computer is a questionable use of taxpayer dollars, since the individual was no longer actively working for the District (see page 6).

Finding No. 2: Inaccurate Reporting of Retirement Wages and Service Years.

Our review of the former Principal's employment contract, payroll records, retirement records, and settlement agreement found that the former Principal's compensation of \$44,285 for the period July 1, 2011 through October 29, 2011, while he was on administrative leave, was not qualified retirement wages. Consequently, that amount should not have been reported to the Public School Employees' Retirement System (PSERS). Additionally, the period July 1, 2011 through October 29, 2011, should not have been reported to PSERS as part of the

former Principal's eligible service years (see page 9).

Status of Prior Audit Findings and Observations. There were no findings or observations included in our prior audit report.

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the Pennsylvania Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each local education agency (LEA). The results of these audits are shared with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

Our audit, conducted under authority of 72 P.S. § 403, is not a substitute for the local annual audit required by the Public School Code of 1949, as amended. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period September 10, 2010 through August 31, 2012, except for the verification of retirement wages which was performed for the period July 1, 2010 through June 30, 2012.

Regarding state subsidies and reimbursements, our audit covered the 2009-10 and 2008-09 school years.

While all districts have the same school years, some have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with Pennsylvania Department of Education (PDE) reporting guidelines, we use the term school year rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

Objectives

What is the difference between a finding and an observation?

Our performance audits may contain findings and/or observations related to our audit objectives. Findings describe noncompliance with a statute, regulation, policy, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the District's compliance with applicable state laws, contracts, grant requirements, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our audit objectives:

- ✓ Did the District have sufficient internal controls to ensure that the membership data it reported to PDE through the Pennsylvania Information Management System was complete, accurate, valid, and reliable?
- ✓ In areas where the District received state subsidies and reimbursements based on payroll (e.g. retirement), did it follow applicable laws and procedures?

- ✓ Did the District, and any contracted vendors, ensure that their current bus drivers were properly qualified, and did they have written policies and procedures governing the hiring of new bus drivers?
- ✓ Were there any declining fund balances that may pose a risk to the District's fiscal viability?
- ✓ Did the District pursue a contract buy-out with an administrator and if so, what was the total cost of the buy-out, what were the reasons for the termination/settlement, and did the current employment contract(s) contain adequate termination provisions?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties?
- ✓ Did the District take appropriate steps to ensure school safety?
- ✓ Did the District have a properly executed and updated Memorandum of Understanding with local law enforcement?
- ✓ Were votes made by the District's Board of School Directors free from apparent conflicts of interest?
- ✓ Did the District take appropriate corrective action to address recommendations made in our prior audit?

Methodology

Government Auditing Standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objectives.

The District's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District is in compliance with applicable laws, contracts, grant requirements, and administrative procedures. In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology controls, as

What are internal controls?

Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:

- Effectiveness and efficiency of operations.
- Relevance and reliability of operational and financial information.
- Compliance with applicable laws, contracts, grant requirements, and administrative procedures.

they relate to the District’s compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

In order to properly plan our audit and to guide us in possible audit areas, we performed analytical procedures in the areas of state subsidies and reimbursements, pupil transportation, pupil membership, and comparative financial information.

Our audit examined the following:

- Records pertaining to pupil transportation, pupil membership, bus driver qualifications, professional employee certification, financial stability, reimbursement applications, tuition receipts, and deposited state funds.
- Items such as board meeting minutes and policies and procedures.

Additionally, we interviewed select administrators and support personnel associated with the District’s operations.

Findings and Observations

Finding No. 1

Administrator Settlement Agreement Cost Taxpayers Over \$65,000

Criteria relevant to the finding:

In order to represent the best interests of the taxpayers and students, it is the responsibility of the board, as public officials, to adhere to sound business practices and strong financial management.

The New Hope-Solebury School District's (District) former Principal was compensated \$62,575 as part of the settlement agreement and release negotiated upon his retirement. The settlement agreement provided the former Principal with a lump sum of \$30,000 for refusing to receive medical insurance. This amount was deposited directly into the former Principal's 403(b) account – a tax deferred federal savings plan. In addition, the settlement agreement included a payment of \$9,750 for accrued and unused sick days, and a stipend of \$3,000 for the purchase of a home computer. The former Principal also received a payment of \$19,825 for accrued and unused vacation days that was not included in the settlement agreement, but was based instead on the terms of the District's Administrator Compensation Plan (Act 93). Therefore, the former Principal's total retirement payout was \$62,575.

Per the settlement agreement release, both parties agreed that the terms of the agreement superseded any and all rights conferred to the former Principal under the Act 93 agreement effective July 1, 2008 through June 30, 2011, and any successor plans. Therefore, the former Principal was not entitled to the vacation day payout of \$19,825, since it was not in the settlement agreement.

Additionally, the settlement agreement stated that the former Principal would be granted a stipend of up to \$3,000 to be used for the purchase of home computer hardware, software or other technology for his personal use. The Act 93 agreement had a similar clause. The granting of the stipend to the former Principal was a questionable use of taxpayer dollars, since the individual had resigned and was no longer working for the District.

The District stated that they felt that the terms and conditions of the settlement agreement were in the best interests of the District.

None of the details of the agreement were discussed at a public meeting, and the agreement included a confidentiality clause. The information in these agreements should be fully transparent to the public, so that the taxpayers can consider such information when determining whether the board has made decisions in the best interests of the District, the taxpayers, and the students.

Recommendations

The *New Hope-Solebury School District* should:

1. Adhere to the compensation language of contracts and/or settlement agreements for employees.
2. Be fully transparent to the taxpayers in decisions of this nature by not including confidentiality clauses or questionable stipends.

Management Response

Management stated the following:

“Although neither the settlement agreement with the Administrator nor the then current Act 93 agreement address payment of earned and unused vacation days, the District had a past practice under which any and every administrator who resigned, for whatever reason, were paid earned and unused vacation days upon the effective date of his/her resignation. It is acknowledged that the District paid the Administrator for his earned and unused, accumulated vacation days upon the effective date of his retirement. It was the Districts’ understanding of the law that any employee is entitled to be paid at their per diem rate for any unused vacation days when their employment ends. It was based on this understanding, and the resulting past practice of the District, that the District paid the Administrator for his earned and unused, accumulated vacation days, despite the language of the settlement agreement. Thus, the District disagrees that this payment to the Administrator was improper.

Pursuant to paragraph 3 of the settlement agreement, the District acknowledges that it paid the Administrator a stipend in the amount of \$3,000. Article 11 of the District’s then current Act 93 agreement gave each administrator a \$3,000 stipend per year to be used between July 1st and June 30th of each covered year in order to cover the costs of home computer hardware, software or other

communication purchases to facilitate working at home, and or while away from the office. Thus, this stipend was permitted under the then current Act 93 agreement and was a negotiated provision in the settlement agreement. The District disagrees that this payment to the Administrator was improper.

The District also understands that in recent months, the Auditor General has challenged a number of school Districts that have entered into severance agreements with an outgoing administrator, and as a result of the Auditor General's attention to these situations, the Legislature has changed the law in this regard going forward, at least as regarding any commissioned officers. Again, the fact that the Legislature changed the then current law supports the lawfulness of the District's actions in 2011. Furthermore, the law with regards to non-commissioned professional employees was not changed by the Legislature going forward. Thus, the District's past actions with regards to the non-commissioned Administrator were lawful. Accordingly, the District disputes this finding and maintains that it acted in accordance with the law as it existed at the time."

Auditor Conclusion

We concur that the District may not have violated any laws, and we are not aware of any law that requires the payment of accumulated leave. We maintain that the District violated the terms of the settlement agreement by making payment for unused vacation days that were not provided for in the agreement. Additionally, the settlement agreement was not transparent, which did not allow the taxpayers to determine whether the board made decisions in the best interests of the District's taxpayers and students.

Finding No. 2

Inaccurate Reporting of Retirement Wages and Service Years

Criteria relevant to the finding:

The Pennsylvania Retirement Code, 24 Pa.C.S. § 8102, defines a “school employee” is as “any person engaged in work relating to a public school for any governmental entity and for which work he is receiving regular remuneration. . . .” (emphasis added)

The Public School Employees’ Retirement System (PSERS) Employer Reference Manual for Reporting, Chapter 2, states that to be eligible for PSERS membership as a full-time employee, the employee must work 5 hours or more per day, 5 days per week or its equivalent. It further states to be eligible as a part-time employee, the employee must be contracted to work less than 5 hours per day, 5 days per week or its equivalent, and must have their salaries and retirement deductions reported to PSERS through monthly Work Report Records.

PSERS allows only qualified salary and wages to be included for retirement purposes. According to PSERS Employer’s Reference Manual for Reporting, pursuant to 22 Pa. Code § 211.2, “certain types of payments made to employees must not be included in a retirement calculation.” These unqualified earnings include “any payment that is contingent upon an employee retiring.”

Our review of the New Hope-Solebury School District’s (District) former Principal’s employment contract, payroll records, retirement records and separation agreement and release found that the former Principal’s compensation of \$44,285 from the period July 1, 2011 through October 29, 2011, while he was on administrative leave, was inaccurately reported as the Public School Employees’ Retirement System (PSERS) retirement wages. Additionally, the period July 1, 2011 through October 29, 2011, should not have been reported to PSERS as eligible for service years credit.

The former Principal retired and stopped performing his duties on June 30, 2011. However, his effective retirement date was October 29, 2011. The District approved the effective retirement date and placed the former Principal on paid administrative leave for the period July 1, 2011 to October 29, 2011, at his current salary and benefits, including PSERS membership.

From July 1, 2011 through October 29, 2011, the former Principal was compensated \$44,285, all of which was reported to PSERS as eligible wages for retirement. However, this amount was not subject to retirement, since the former Principal was not in full or part-time employment status. Moreover, when the auditors questioned the District’s administration about the extension of the former Principal’s effective retirement date to October 29, 2011, it was stated that this date was requested by the former Principal to maximize his retirement.

Although, the former Principal ceased to be a full or part-time employee of the District on July 1, 2011, when he was put on paid administrative leave, this period of time was included as part of his service retirement credits. PSERS uses service credits to determine the percentage of salary a former employee would receive in retirement payments. According to the criteria included in the PSERS Reference Manual, to be eligible for PSERS membership, an employee must meet full or part-time requirements. Furthermore, the former Principal had 20 years of service credited towards PSERS wages as of the 2010-11 school

year, and the District reported 86 days to PSERS for the 2011-12 school year, which represented the period the former Principal was on administrative leave.

Although the District's Board of School Directors has the authority to craft the terms of a contract, it may not supersede PSERS' benefit structure. If PSERS determines the former Principal's wages are not eligible retirement wages, their inclusion in PSERS will result in reporting errors and overpayments to the former Principal for the 2011-12 school year, including the additional percentage of service credit.

Recommendations

The *New Hope-Solebury School District* should:

1. Contingent upon PSERS's final determination, report to PSERS only those wages allowable for retirement purposes, as stated in the PSERS Employer Reference Manual.
2. Implement procedures for reviewing all salary and contribution reports, to ensure that only eligible wages are being reported to PSERS for retirement contributions.

The *Public School Employees' Retirement System* should:

3. Review the propriety of the wages and service credits for the above mentioned employee and make any necessary adjustments.

Management Response

Management stated the following:

"We note in this finding that the Auditor General acknowledges that this is only a 'possible' violation by the District. As such, it is rather difficult to respond to a 'possible' violation, but the District will attempt to do so. At the time, it was the District's agreement with the Administrator that he would be on leave for the period of June 30th through October 29, 2011, and that he would continue to receive his salary and benefits while on leave. As such, because the Administrator was receiving his salary, it was the District's understanding that under PSERS rules, the District had to make its contribution to PSERS, as did the Commonwealth and the Administrator.

In this ‘possible’ improper finding, the Auditor General seems to be saying that those contributions should not have been made. In the end, PSERS will have to determine whether the payments made to the Administrator by the District should have been treated as a PSERS payment on which contributions were to be made. As the District understands the situation, if it was correct and contributions should have been made, PSERS will conclude that there was no improper reporting of retirement wages and service years. On the other hand, if PSERS agrees with the Auditor General that the District should not have reported these payments and should not have made its contributions, then it seems that PSERS should make a refund to the District of the amount contributed on the Administrator’s behalf, and it will be between PSERS and the Administrator what this does to his pension, if anything.

In addition, the District is unaware of any rule or regulation of your office or PSERS that prohibits the actions taken by the District. If such a rule or regulation exists, please share it with us so that we can ensure payments will not be made to PSERS under similar circumstances in the future.”

Auditor Conclusion

As stated above, the PSERS Employer Reference Manual is clear when an employee is eligible for retirement benefits. We have provided PSERS with reports detailing the questionable retirement wages and service years for determination of eligibility and possible adjustments to individual retirement calculations.

Status of Prior Audit Findings and Observations

Our prior audit of the New Hope-Solebury School District resulted in no findings or observations.

Distribution List

This report was initially distributed to the Superintendent of the District, the Board of School Directors, our website at www.auditor.gen.state.pa.us, and the following stakeholders:

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This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.

